

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5995 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

S S SOLANKI

Versus

DIRECTOR GENERAL OF POLICE

Appearance:

MR SUDHIR M MEHTA for Petitioner

MR SP HASURKAR for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2, 3, 4, 5

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 14/08/98

ORAL JUDGEMENT

RULE.

Normally, it would not be for this Court to interfere in the matter of transfer. However, I consider it to be a fit case which calls for interference by this Court in the matter of transfer in exercise of Article

226 of the Constitution of India. The petitioner, a Police Inspector, was transferred from Ahmedabad to Balasinor in May 1998. However, by the impugned order dated 23.7.1998, he has been transferred from Balasinor to Kheda as Police Inspector. It is not in dispute that the petitioner is due to retire on 28.2.1999. The impugned order of transfer is sought to be interfered on two grounds : firstly; that only within a period of two months of his stay at Balasinor, he has been disturbed and secondly that the petitioner is due to retire in February, 1999. Therefore, he should be allowed to retire peacefully from Balasinor where his family is settled.

2. Mr I M Desai, D.S.P., Kheda has filed affidavit.

It is stated that the petitioner has been transferred within the District as per the policy. It is also stated that he has been transferred for the administrative reasons.

3. I have heard the learned Advocates for the parties. From the reply, I do not find any compelling reasons to transfer a person who has been transferred only two months back, and has now only seven months to retire. A person in the evening of his service career, should be permitted to retire peacefully unless there are extra-ordinary reasons to disturb. In my view, the impugned order of transfer is not only arbitrary, but also unjust.

4. In view of the aforesaid, this Special Civil Application is allowed. The impugned order dated 23.7.1998 transferring the petitioner from Balasinor to Kheda is quashed and set aside. Rule made absolute accordingly.

Mr H P Hasrukar, learned Government Solicitor submits that this order be stayed for a period of two weeks. The prayer is declined. The respondent No.4-D.S.P., Kheda is directed to ensure compliance of this order within a period of one week and report to this Court. Direct Service is permitted.

14.8.98 [N N Mathur, J]

msh